1951.

File No. Irrigation II
51(R)
Legal Department-
B **BRANCH**

Subject:— Rules

P.L.
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Rules under the Bombay
Irrigation Act, 1879

File No. Irrigation II/51(R)

[redacted]

Office of the E.L.A.

A revised draft of the proposed rules is sent herewith.

2. It is not necessary to define the term "zones of land". Hence in the revised draft the definitionis omitted.

3. Revised draft rules 3,4 and 5. - The Public Works Department's draft rule 4 has been split up into separate rules, namely, rules 3,4 and 5. These rules have been framed so as to conform to clause (42) of section 70 of the Act. As regards the payment of betterment charges by instalments, the Committee in paragraph 20 of its report has suggested a period of 20 or more years. The P.W.D. should consider what maximum period should be fixed.

4. Revised draft rule 6. - This corresponds to clause (1) of rule 4 in the P.W.D. draft. Clause (44) of section 70 contemplates the laying down of conditions subject to which relinquishment or exchange of land shall be permitted. The P.W.D. has made no provisions in that behalf in its draft. The P.W.D. is requested to consider this point.

5. Revised draft rule 7. - This rule is framed so as to take a general power for the Government to grant suspension or remission in betterment charges when crops are damaged on account of floods, tempest etc.

6. Revised draft rule 8. - The P.W.D. draft rule 6 is revised in the light of clause (45) of section 70 which provides for the division of land into zones. The other provisions made in P.W.D. draft rule 6 are not included in this rule as they are relatable to the scheme to be prepared under section 49. The description of the term "perennial zone" is based on the meaning of the word "pume perennial" as

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given in the dictionnry. It means flowing through all seasons of the year. The P.W.D. should verify whether the description is appropriate.

LC. Sd/-
24/4

Remembrancer of Legal Affairs.

U.R. to P.W.D. No. 6570, dated the 25th April 1951.

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Office of the R.L.A.

Although the Rules in question appear to be non-statutory there is no objection to publishing them in the Bombay Government Gazette for the information of the general public. Such publication is however not legally necessary.

C. Sd/-
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Remembrancer of Legal Affairs.

U.M. to P.W.D. No. 8295, dated the 26th May 1951.

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OFFICE OF THE R.I.A.

In the P.W.D. note at page 19 ante it is proposed to add sub-rule (9) to rule 8 of the Bombay Canal Rules, 1934, to the effect that if a person, applying for water supply, is found to have failed, for reasons beyond his control, to fulfil the levy demand or is found to be contumacious levy defaulter, water supply should be refused to such person. The Bombay Canal Rules, 1934, are framed under the Bombay Irrigation Act, 1879. The draft rule as proposed by the P.W.D. appears to be beyond the scope of the Bombay Irrigation Act, 1879. A person failing to fulfil levy demand can be dealt with in accordance with the provisions of the Essential Supplies (Temporary Powers) Act, 1946. But that can ot be a ground for rejecting water supply to such person under the Bombay Irrigation Act, 1879. There is no provision in the Bombay Irrigation Act, which would enable the framing of the proposed rule. The proposed amendment of rule 8 of the Bombay Canal Rules, 1934, would not therefore be ekklegally valid.

Oc. Sd/- 14/9

Remembrancer of Legal Affairs.

U.R. to P.W.D. No. 14658, dated the 15th September '51.

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